

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 483

5 By: Senator J. English  
6 By: Representative Cozart  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE  
10 CONCERNING PUBLIC SCHOOL FISCAL ACCOUNTABILITY AND  
11 REPORTING; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE  
16 CONCERNING PUBLIC SCHOOL FISCAL  
17 ACCOUNTABILITY AND REPORTING.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 6-20-1902 is amended to read as follows:  
23 6-20-1902. Purpose.

24 The purpose of this subchapter shall be to ~~establish and implement a~~  
25 improve Arkansas public school districts' financial practices and use of  
26 resources by establishing a:

27 (1) System by which the Department of Education shall review the  
28 financial management practices of public school districts, including without  
29 limitation identifying best financial management practices; ~~program~~

30 (2) Program by which the Department of Education shall identify,  
31 assess, and address public school districts in any phase of fiscal distress  
32 and that includes without limitation identification of early indicators of  
33 fiscal distress and early intervention in public school districts that  
34 experience early indicators of fiscal distress; and

35 (3) System for providing continuous fiscal support and  
36 monitoring to public school districts that have been returned to local



1 control after being identified as in fiscal distress.

2

3 SECTION 2. Arkansas Code § 6-20-1904(a)(2), concerning an act or  
4 violation determined by the Department of Education to jeopardize the fiscal  
5 integrity of a public school district, is amended to add additional  
6 subdivisions to read as follows:

7 (M) Material failure to comply with § 6-20-1913 or  
8 department rules concerning the minimum qualifications for a general business  
9 manager; or

10 (N) Material failure to comply with reporting, debt  
11 approval, or other requirements placed on a public school district that has  
12 been returned to local control under § 6-20-1912; or

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14 SECTION 3. Arkansas Code § 6-20-1904(b), concerning reporting to the  
15 superintendent of a public school district that the public school district  
16 has experienced two (2) or more indicators of fiscal distress, is amended to  
17 read as follows:

18 (b)(1) By ~~August 31~~ November 1 of each year, the department shall  
19 report to the superintendent of a public school district if the department is  
20 aware that the public school district has experienced two (2) or more  
21 indicators of fiscal distress, as described in subsection (a) of this section  
22 or in department rules, in one (1) school year that the department deems to  
23 be at a nonmaterial level but that without intervention could place the  
24 public school district in fiscal distress.

25 (2) ~~The~~ By November 1 of each year, the superintendent of a  
26 public school district shall report to the department if the superintendent  
27 is aware the public school district has experienced two (2) or more  
28 indicators of fiscal distress, as described in subsection (a) of this section  
29 or in department rules, in one (1) school year that the superintendent deems  
30 to be at a nonmaterial level but that without intervention could place the  
31 public school district in fiscal distress.

32 (3)(A) The department and the superintendent shall review all  
33 data related to the nonmaterial indicators of fiscal distress.

34 (B)(i) Within thirty (30) days of the department's  
35 determination that the public school district may be experiencing fiscal  
36 distress at a nonmaterial level, the department shall provide a notice to the

1 public school district's superintendent and board of directors that:

2 (a) Describes the nonmaterial indicators of  
3 fiscal distress that could jeopardize the fiscal integrity of the public  
4 school district if not addressed; and

5 (b) Identifies the support available from the  
6 department to address each nonmaterial indicator of fiscal distress.

7 (ii) The board of directors of the public school  
8 district shall place on the agenda for the next regularly scheduled meeting  
9 of the board of directors of the public school district a discussion of the  
10 notice of nonmaterial indicators of fiscal distress.

11 (4) A public school district determined to be experiencing  
12 fiscal distress at a nonmaterial level under this subsection shall:

13 (A) Comply with all requirements established by the state  
14 board in rules, including without limitation review of the public school  
15 district's budget, reporting, and the hiring and termination of staff;

16 (B) Not incur any debt without the prior written approval  
17 of the department; and

18 (C) Use Arkansas Legislative Audit to conduct an annual  
19 audit.

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21 SECTION 4. Arkansas Code § 6-20-1905(a), concerning notification by  
22 the Department of Education to a public school district identified as being  
23 in fiscal distress, is amended to read as follows:

24 (a)(1)(A)~~(i)~~ The Department of Education shall provide written notice,  
25 via certified mail, return receipt requested, to the president of the ~~school~~  
26 ~~district~~ board of directors and the superintendent of each public school  
27 district identified as being in fiscal distress.

28 ~~(i)~~(B) The department shall provide the notice  
29 required under this subdivision ~~(a)(1)(A)~~(a)(1) on or before ~~March~~ June 30 of  
30 each year.

31 ~~(B)~~~~(i)~~(2)(A) At any time after ~~March~~ June 30, the  
32 department may identify a public school district as being in fiscal distress  
33 if the department discovers that a fiscal condition of a public school  
34 district negatively impacts the continuation of educational services by the  
35 public school district.

36 ~~(i)~~(B) The department immediately shall provide the

1 same notice required under subdivision ~~(a)(1)(A)(i)(1)(A)~~ of this section to  
2 the public school district identified under this subdivision ~~(a)(1)(B)(a)(2)~~.

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4 SECTION 5. Arkansas Code § 6-20-1908(c), concerning a petition to the  
5 State Board of Education by a public school district in fiscal distress, is  
6 amended to read as follows:

7 (c) A public school district in fiscal distress may only petition the  
8 state board for removal from fiscal distress status after the department has  
9 certified in writing that the public school district has corrected all  
10 criteria for being classified as in fiscal distress, has not experienced any  
11 additional indicators of fiscal distress, and has complied with all  
12 department recommendations and requirements for removal from fiscal distress  
13 status.

14  
15 SECTION 6. Arkansas Code § 6-20-1909(a), concerning actions the  
16 Commissioner of Education may take with respect to public school districts in  
17 fiscal distress, is amended to read as follows:

18 (a) In addressing public school districts in fiscal distress, the  
19 Commissioner of Education may:

20 (1) Remove permanently, reassign, or suspend on a temporary  
21 basis the superintendent of the public school district and:

22 (A) Appoint an individual in place of the superintendent  
23 to administratively operate the public school district under the supervision  
24 and approval of the commissioner; ~~and~~

25 (B) Compensate nondepartment agents operating the public  
26 school district from public school district funding; and

27 (C) Authorize an individual appointed under subdivision  
28 (a)(1)(A) of this section to remove, replace, reassign, or suspend public  
29 school district personnel in accordance with state law;

30 (2) Suspend or remove some or all of the current board of  
31 directors and call for the election of a new board of directors for the  
32 public school district, in which case the public school district shall  
33 reimburse the county board of election commissioners for election costs as  
34 otherwise recognized by law;

35 (3)(A) Suspend on a temporary basis some or all of the powers  
36 and duties granted to the current public school district board of directors

1 under § 6-13-620 or any other law but allow the public school district board  
 2 of directors to continue to operate under the direction and approval of the  
 3 commissioner.

4 (B) The State Board of Education shall define the powers  
 5 and duties of the public school district board of directors while the public  
 6 school district board of directors is operating under the direction and  
 7 approval of the commissioner under subdivision (a)(3)(A) of this section.

8 (C) The public school district board of directors shall  
 9 act in an advisory capacity to the commissioner regarding all powers and  
 10 duties granted under § 6-13-620 that are not defined under subdivision  
 11 (a)(3)(B) of this section;

12 ~~(3)(4)~~ Require the public school district to operate without a  
 13 board of directors under the supervision of the local superintendent or an  
 14 individual or panel appointed by the commissioner;

15 ~~(4)(5)~~ Waive the application of Arkansas law or the  
 16 corresponding ~~State Board of Education~~ state board rules, with the exception  
 17 of:

18 ~~(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et~~  
 19 ~~seq.~~ Special education programs as provided in Title 6; and

20 ~~(B) The Public School Employee Fair Hearing Act, § 6-17-~~  
 21 ~~1701 et seq.~~ Criminal background checks for employees as provided in Title 6;  
 22 or

23 (C) Health and safety codes as established by the state  
 24 board and local governmental entities;

25 ~~(5)(6)~~ Petition the state board for the annexation,  
 26 consolidation, or reconstitution of the public school district;

27 ~~(6)(7)~~ In the absence of a public school district board of  
 28 directors, assume all authority of the board of directors as designated by  
 29 the state board as may be necessary for the day-to-day governance of the  
 30 public school district;

31 (8) Require reassignment of some or all of the administrative,  
 32 instructional, or support staff of a public school district;

33 (9) Require reorganization, closure, or dissolution of one (1)  
 34 or more of the public schools within the public school district;

35 ~~(7)(A)(10)(A)~~ Return the administration of the public school  
 36 district to the former board of directors or to a newly elected board of

1 directors if:

2 (i) The Department of Education certifies in writing  
3 to the state board and to the public school district that the public school  
4 district has corrected all issues that caused the classification of fiscal  
5 distress and the public school district has not experienced any additional  
6 indicators of fiscal distress; and

7 (ii) The state board determines the public school  
8 district has corrected all issues that caused the classification of fiscal  
9 distress.

10 (B) If the commissioner calls for an election of a new  
11 public school district board of directors, the public school district shall  
12 reimburse the county board of election commissioners for election costs as  
13 otherwise required by law;

14 ~~(8)(11)~~ Otherwise reconstitute the public school district; or  
15 ~~(9)(12)~~ Take any other action allowed by law that is deemed  
16 necessary to assist a public school district in removing the classification  
17 of fiscal distress.

18  
19 SECTION 7. Arkansas Code § 6-20-1910(d), concerning the process for  
20 returning a public school district to local control, is repealed.

21 ~~(d) If the Commissioner of Education assumes authority over a public~~  
22 ~~school district in fiscal distress under § 6-20-1909, the state board may~~  
23 ~~pursue the following process for returning a public school district to the~~  
24 ~~local control of its residents:~~

25 ~~(1) During the second full school year following the assumption~~  
26 ~~of authority, the state board shall determine the extent of the school~~  
27 ~~district's progress toward correcting all issues that caused the~~  
28 ~~classification of fiscal distress;~~

29 ~~(2)(A) If the state board determines that sufficient progress~~  
30 ~~has been made by a school district toward correcting all issues that caused~~  
31 ~~the classification of fiscal distress, but the school district has not yet~~  
32 ~~resolved all issues that caused the classification of fiscal distress, the~~  
33 ~~commissioner, with the approval of the state board, may appoint a community~~  
34 ~~advisory board of either five (5) or seven (7) members to serve under the~~  
35 ~~supervision and direction of the commissioner.~~

36 ~~(B) The members of the community advisory board shall be~~

1 ~~residents of the school district and shall serve on a voluntary basis without~~  
2 ~~compensation.~~

3 ~~(C) The Department of Education shall cause to be provided~~  
4 ~~to the community advisory board technical assistance and training in, at a~~  
5 ~~minimum, the areas required in § 6-13-629.~~

6 ~~(D) The duties of the community advisory board include~~  
7 ~~without limitation:~~

8 ~~(i) Meeting monthly during a regularly scheduled~~  
9 ~~public meeting with the state appointed administrator regarding the progress~~  
10 ~~of the public school or school district toward correcting all issues that~~  
11 ~~caused the classification of fiscal distress;~~

12 ~~(ii) Seeking community input from the patrons of the~~  
13 ~~school district regarding the progress of the public school or school~~  
14 ~~district toward correcting all issues that caused the classification of~~  
15 ~~fiscal distress;~~

16 ~~(iii) Conducting hearings and making recommendations~~  
17 ~~to the commissioner regarding personnel and student discipline matters under~~  
18 ~~the appropriate district policies;~~

19 ~~(iv) Working to build community capacity for the~~  
20 ~~continued support of the school district; and~~

21 ~~(v) Submitting quarterly reports to the commissioner~~  
22 ~~and the state board regarding the progress of the public school or school~~  
23 ~~district toward correcting all issues that caused the classification of~~  
24 ~~fiscal distress.~~

25 ~~(E) The members of the community advisory board shall~~  
26 ~~serve at the pleasure of the commissioner until:~~

27 ~~(i) The school district is returned to local control~~  
28 ~~and a permanent board of directors is elected and qualified; or~~

29 ~~(ii) The state board annexes, consolidates, or~~  
30 ~~reconstitutes the school district under this section or under another~~  
31 ~~provision of law;~~

32 ~~(3)(A) By April 1 of each year following the appointment of a~~  
33 ~~community advisory board under subdivision (d)(2) of this section, the state~~  
34 ~~board shall determine the extent of the school district's progress toward~~  
35 ~~correcting all issues that caused the classification of fiscal distress and~~  
36 ~~shall:~~

1                   ~~(i) Allow the community advisory board to remain in~~  
2 ~~place for one (1) additional year;~~

3                   ~~(ii) Return the school district to local control by~~  
4 ~~calling for the election of a newly elected board of directors if:~~

5                           ~~(a) The department certifies in writing to the~~  
6 ~~state board and to the school district that the school district has corrected~~  
7 ~~all criteria for being placed into fiscal distress; and~~

8                           ~~(b) The state board determines the school~~  
9 ~~district has corrected all criteria for being placed into fiscal distress; or~~

10                           ~~(iii) Annex, consolidate, or reconstitute the school~~  
11 ~~district pursuant to this title.~~

12                   ~~(B) If the state board or commissioner calls for an~~  
13 ~~election of a new school district board of directors, the school district~~  
14 ~~shall reimburse the county board of election commissioners for election costs~~  
15 ~~as otherwise required by law;~~

16                   ~~(4)(A) If the state board calls for an election of a new school~~  
17 ~~district board of directors pursuant to subdivision (d)(3)(A)(ii) of this~~  
18 ~~section, the commissioner, with the approval of the state board, may appoint~~  
19 ~~an interim board of directors to govern the school district until a permanent~~  
20 ~~school district board of directors is elected and qualified.~~

21                           ~~(B) The interim board of directors shall consist of either~~  
22 ~~five (5) or seven (7) members.~~

23                           ~~(C) The members of the interim board of directors shall be~~  
24 ~~residents of the school district and otherwise eligible to serve as school~~  
25 ~~district board members under applicable law.~~

26                           ~~(D) The members of the interim board of directors shall~~  
27 ~~serve on a voluntary basis without compensation.~~

28  
29           SECTION 8. Arkansas Code Title 6, Chapter 20, Subchapter 19, is  
30 amended to add additional sections to read as follows:

31           6-20-1912. Fiscal support and monitoring.

32           (a) When a public school district is returned to local control or  
33 removed from fiscal distress status, the Department of Education:

34                   (1) Shall monitor the fiscal operations and accounts of the  
35 public school district for a period of three (3) years;

36                   (2) Shall provide support to the public school district



1 regarding maintaining fiscal integrity and best financial management  
2 practices; and

3 (3) May impose various reporting requirements on the public  
4 school district.

5 (b) A public school district that is returned to local control shall:

6 (1) Comply with all monitoring and reporting requirements  
7 established by the department and the State Board of Education, including  
8 without limitation review of the public school district's budget and approval  
9 for staffing;

10 (2) Not incur any debt without prior written approval of the  
11 department; and

12 (3) Use Arkansas Legislative Audit to conduct an annual audit.

13  
14 6-20-1913. General business manager – Definition.

15 (a) As used in this subchapter, "general business manager" means a  
16 chief financial officer or business manager, however the position is titled,  
17 who:

18 (1) Is responsible for the fiscal operations of a public school  
19 district; and

20 (2) Performs duties under the direction of a superintendent of a  
21 public school district.

22 (b)(1) A general business manager for a public school district shall  
23 meet the minimum qualifications established by Department of Education rules.

24 (2) These department rules shall ensure minimum qualifications  
25 that support the implementation of best financial management practices for  
26 public school districts.

27 (c) A general business manager who was hired before July 31, 2007, is  
28 exempt from subsection (b) of this section.

29  
30 6-20-1914. Review of financial management practices.

31 (a) The Department of Education shall implement a system for reviewing  
32 the financial management practices of public school districts to determine  
33 the support that is needed by public school districts.

34 (b) The system established under subsection (a) of this section shall  
35 address without limitation a public school district's:

36 (1) Use of resources;

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(2) Financial accountability; and  
(3) Personnel systems and benefits management.